## Remarks

### **§ 112 Rejection**

The claims have been amended to clarify the positioning of the anchoring structure. Support for this amendment is found in the specification at paragraph 0087.

### **§ 102 Rejection**

The claims have been amended to clarify that Applicants' anchoring structure is a stent composed of a shape memory metal alloy. Support for this amendment is found in the specification at Paragraph 00124. Peredo (U.S. 6,558,417), on which the Examiner's 102 rejection is based, is directed to a stentless valve (col. 3, lines 50-52) with a rim of biological tissue (col. 4, lines 1-4).

### **103 Rejection (Garrison and Myers)**

This rejection is directed to claims 1-3, 5-6 and 18-20. As pointed out in the October 6, 2005 Office Action, Garrison (U.S. Patent 6,425,916) discloses "straight rather than scalloped" inflow annulus. Thus the rejection is based on a combination of Garrison and Myers (U.S. 2002/0052651). But while Garrison shows an expandable and collapsible valve displacer or stent, Myers is directed to stentless valve (page 1, paragraph 0013, first sentence; page 2, paragraphs 0014, 0015, and 0016, first line; Figures 1-41). The Myers valve is stentless in order to promote hemodynamic performance (page 1, paragraph 0009, last sentence). It is submitted that there is no suggestion or teaching in Garrison or Myers that the two disclosures should be combined. *See Al-Site Corp. v. VSI Int'l.*, 174 F.3d 1308, 50 USPQ2d 1161 (Fed. Cir. 1999); MPEP 2143.01. Indeed, given that Myers discloses the disadvantages of an anchoring structure or stent as opposed to a stentless design, it teaches away from a combination with Garrison. See *In re Graselli,* 713 F.2d 731, 734, 218 USPQ 769, 779 (Fed. Cir. 1983); MPEP 2145 X., D., 2.

## 103 Rejection (Greenhalgh and Myers; Spencer and Myers)

Claims 1-3, 5-6 and 18-20 were rejected based on Greenhalgh (U.S. Patent 6,494,909) and Myers. And claims 1-3 and 5-20, as well as 8-9 were rejected based on Spencer (U.S. Patent 6,730,118) and Myers. As was true of Garrison, the Office Action also concedes that Greenhalgh and Spencer disclose a straight, rather than scalloped, inflow annulus. Thus the asserted combination with Myers. However, both Greenhalgh (stent 14, col. 3, lines 24; Fig. 1) and Spencer (support stent 22, col. 13, line 27; Fig. 1) are stent support valves, while Myers is directed to a stentless valve. For the same reasons expressed with respect to the rejection based on Garrison and Myers, it is submitted that there is no suggestion to combine such references, indeed, Myers teaches away from stent support valves.

## Examiner's Response to Arguments

The Examiner argues that Myers (a reference used in all of her 103 rejections) "is used as a teaching for the shape of a valve." Applicant respectfully disagrees. 35 U.S.C. § 103 requires that there be some teaching, suggestion or motivation to combine references. As explained in *In re Ratti*, 270 F.2d 810, 123 U.S.P.Q. 349 (CCPA 1959), MPEP § 2143.02, VI, the proposed modification cannot change the principle of the operation of the references. The principle of operation of the Myers valve is improved hermodynamic performance produced by a stentless valve (see first sentence of paragraphs 13, 14, 15 and 16). It is submitted that there is no suggestion to combine Myers with a stented valve. Indeed, Myers teaches away from such a combination.

Allowance of claims 1, 3 and 6-20 is earnestly solicited.

Respectfully submitted,

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